



Criminal Law (Mental Impairment) Act 2023 (WA)

**PRACTICE NOTE 1 / 2025 – BREACH OF LEAVE OF ABSENCE ORDER OR
COMMUNITY SUPERVISION ORDER**

The Mental Impairment Review Tribunal

Section 195 of the *Criminal Law (Mental Impairment) Act 2023 (WA)* (the Act) provides that the President may from time-to-time issue, amend or revoke practice notes for regulating the practice and procedures of the Mental Impairment Review Tribunal (the Tribunal).

Management of Breach Allegations

Under sections 81 and 88 of the Act, if the Tribunal reasonably suspects that a condition of a leave of absence order (LOA Order) or community supervision order (CSO) has not been complied with, it *may* review the order under Part 6 Division 4 of the Act.

The Tribunal is informed of alleged breaches by way of advice from Adult Community Corrections, the Youth Justice Service or Western Australia Police. Many breach allegations involve conduct that, while non-compliant with the conditions of the LOA Order or CSO, would not necessarily require the consideration of the full Tribunal.

This Practice Note ensures the limited resources of the Tribunal are not consumed in circumstances where there is a reasonable suspicion that a breach has occurred, but the breach is assessed as falling below the threshold of warranting a substantive review under Part 6 Division 4 of the Act.

While each breach allegation is assessed on a case-by-case basis having regard to the Act's paramount consideration, the protection of the community, the following circumstances will ordinarily give rise to a breach allegation being considered by the Tribunal:

- A breach involving abscondment from a place of custody;
- A breach involving a charge or charges being proffered against the supervised person by police;
- A breach considered by the Supervising Officer or nominated person to be indicative of an escalation of risk to the protection of the community;
- A breach that would usually fall below the threshold of requiring full consideration by the Tribunal, but that is repeated persistently; or
- Any other breach considered by a nominated person to warrant a substantive review or where advice concerning the breach is received by the Tribunal after hours¹.

Nominated Persons

The determination as to whether an alleged breach is to be reviewed by the Tribunal under Part 6 Division 4 of the Act may be carried out by any of the following nominated persons:

- The President;
- A Deputy President;
- A Member;

¹ Please refer to Practice Note 2 of 2024 regarding the process established for after-hours breaches.



**Mental Impairment Review Tribunal
Western Australia**

- The Registrar; or
- A Senior Advisory Officer.

Terms of the Practice Note

This practice notes takes effect on and from the date of signing and shall remain in full force and effect until such time as it is revoked by further instrument in writing signed by the President.

Signed

A handwritten signature in dark ink, appearing to be 'J Curthoys', written over a horizontal line.

The Honourable Jeremy Curthoys
PRESIDENT
MENTAL IMPAIRMENT REVIEW TRIBUNAL

30 July 2025